



General Assembly

January Session, 2005

**Committee Bill No. 27**

LCO No. 4513

\*04513SB00027INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

**AN ACT CONCERNING CAPTIVE INSURERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) As used in sections 1 to  
2 18, inclusive, of this act:

3 (1) "Affiliated company" means any company in the same corporate  
4 system as a parent, an industrial insured, or a member organization by  
5 virtue of common ownership, control, operation or management.

6 (2) "Association" means any legal association of individuals,  
7 corporations, limited liability companies, partnerships, associations or  
8 other entities that has been in continuous existence for at least one  
9 year, where the association itself or some or all of the member  
10 organizations:

11 (A) Own, control or hold with power to vote all of the outstanding  
12 voting securities of an association captive insurance company  
13 incorporated as a stock insurer;

14 (B) Have complete voting control over an association captive  
15 insurance company incorporated as a mutual insurer; or

16 (C) Constitute all of the subscribers of an association captive  
17 insurance company formed as a reciprocal insurer.

18 (3) "Association captive insurance company" means any company  
19 that insures risks of the member organizations of the association and  
20 their affiliated companies.

21 (4) "Branch captive insurance company" means a pure captive  
22 insurance company with respect to operations in this state, unless  
23 otherwise permitted by the commissioner.

24 (5) "Captive insurance company" means any pure captive insurance  
25 company, association captive insurance company, sponsored captive  
26 insurance company, industrial insured captive insurance company or  
27 risk retention group formed or licensed under the provisions of  
28 sections 1 to 18, inclusive, of this act.

29 (6) "Commissioner" means the Insurance Commissioner.

30 (7) "Controlled unaffiliated business" means any company:

31 (A) That is not in the corporate system of a parent and affiliated  
32 companies;

33 (B) That has an existing contractual relationship with a parent or  
34 affiliated company; and

35 (C) Whose risks are insured by a pure captive insurance company in  
36 accordance with section 18 of this act.

37 (8) "Excess workers' compensation insurance" means, in the case of  
38 an employer that has insured or self-insured its workers' compensation  
39 risks in accordance with applicable state or federal law, insurance in  
40 excess of a specified per-incident or aggregate limit established by the  
41 commissioner.

42 (9) "Industrial insured" means an insured:

43 (A) Who procures the insurance of any risk or risks by use of the  
44 services of a full-time employee acting as an insurance manager or  
45 buyer;

46 (B) Whose aggregate annual premiums for insurance on all risks  
47 total at least twenty-five thousand dollars; and

48 (C) Who has at least twenty-five full-time employees.

49 (10) "Industrial insured captive insurance company" means any  
50 company that insures risks of the industrial insureds that comprise the  
51 industrial insured group and their affiliated companies.

52 (11) "Industrial insured group" means any group of industrial  
53 insureds that collectively:

54 (A) Own, control or hold with power to vote all of the outstanding  
55 voting securities of an industrial insured captive insurance company  
56 incorporated as a stock insurer;

57 (B) Have complete voting control over an industrial insured captive  
58 insurance company incorporated as a mutual insurer; or

59 (C) Constitute all of the subscribers of an industrial insured captive  
60 insurance company formed as a reciprocal insurer.

61 (12) "Member organization" means any individual, corporation,  
62 limited liability company, partnership, association or other entity that  
63 belongs to an association.

64 (13) "Mutual corporation" means a corporation organized without  
65 stockholders and includes a nonprofit corporation with members.

66 (14) "Parent" means a corporation, limited liability company,  
67 partnership, other entity or individual, that directly or indirectly owns,  
68 controls or holds with power to vote more than fifty per cent of the  
69 outstanding voting:

70 (A) Securities of a pure captive insurance company organized as a  
71 stock corporation; or

72 (B) Membership interests of a pure captive insurance company  
73 organized as a nonprofit corporation.

74 (15) "Pure captive insurance company" means any company that  
75 insures risks of its parent and affiliated companies or controlled  
76 unaffiliated business.

77 (16) "Risk retention group" means a captive insurance company  
78 organized under the laws of this state pursuant to the federal Liability  
79 Risk Retention Act of 1986, 15 USC 3901 et seq., as amended from time  
80 to time, as a stock or mutual corporation, a reciprocal or other limited  
81 liability entity.

82 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) Any captive insurance  
83 company, when permitted by its articles of association, charter or other  
84 organizational document, may apply to the Insurance Commissioner  
85 for a license to do the business of life insurance, annuities, health  
86 insurance, as defined in section 38a-469 of the general statutes, and  
87 commercial risk insurance, as defined in section 38a-663 of the general  
88 statutes, provided:

89 (1) No pure captive insurance company may insure any risks other  
90 than those of its parent and affiliated companies or controlled  
91 unaffiliated business;

92 (2) No association captive insurance company may insure any risks  
93 other than those of the member organizations of its association, and  
94 their affiliated companies;

95 (3) No industrial insured captive insurance company may insure  
96 any risks other than those of the industrial insureds that comprise the  
97 industrial insured group, and their affiliated companies;

98 (4) No risk retention group may insure any risks other than those of

99 its members and owners;

100 (5) No captive insurance company may provide private passenger  
101 motor vehicle or homeowner's insurance coverage or any component  
102 thereof;

103 (6) No captive insurance company may accept or cede reinsurance  
104 except as provided in section 11 of this act;

105 (7) No captive insurer may provide workers' compensation  
106 insurance, except that any captive insurance company may provide  
107 excess workers' compensation insurance to its parent and affiliated  
108 companies, unless prohibited by federal law or the laws of the state  
109 having jurisdiction over the transaction. Any captive insurance  
110 company, unless prohibited by federal law, may reinsure workers'  
111 compensation of a qualified self-insured plan of its parent and  
112 affiliated companies; and

113 (8) Any captive insurance company which provides life insurance,  
114 annuities or health insurance shall comply with all applicable state and  
115 federal laws.

116 (b) No captive insurance company shall do any insurance business  
117 in this state unless:

118 (1) It first obtains from the Insurance Commissioner a license  
119 authorizing it to do insurance business in this state;

120 (2) Its board of directors or committee of managers or, in the case of  
121 a reciprocal insurer, its subscribers' advisory committee holds at least  
122 one meeting each year in this state;

123 (3) It maintains its principal place of business in this state; and

124 (4) It appoints a registered agent to accept service of process and to  
125 otherwise act on its behalf in this state. Whenever such registered  
126 agent cannot with reasonable diligence be found at the registered

127 office of the captive insurance company, the insurance commissioner  
128 shall be an agent of such captive insurance company upon whom any  
129 process, notice or demand may be served.

130 (c) (1) To be considered for a license, a captive insurance company  
131 shall:

132 (A) File with the commissioner a certified copy of its organizational  
133 documents, a statement under oath of its president and secretary  
134 showing its financial condition, and any other statements or  
135 documents required by the commissioner; and

136 (B) Submit to the commissioner for approval a description of the  
137 coverages, deductibles, coverage limits and rates and such additional  
138 information as the commissioner may require. In the event of any  
139 subsequent material change in any item in such description, the  
140 captive insurance company shall submit to the commissioner for  
141 approval an appropriate revision and shall not offer any additional  
142 kinds of insurance until a revision of such description is approved by  
143 the commissioner. The captive insurance company shall inform the  
144 commissioner of any material change in rates not later than thirty days  
145 after the adoption of such change.

146 (2) Each applicant captive insurance company shall also file with the  
147 commissioner evidence of the following:

148 (A) The amount and liquidity of the company's assets relative to the  
149 risks to be assumed;

150 (B) The adequacy of the expertise, experience, and character of the  
151 persons who will manage the company;

152 (C) The overall soundness of the company's plan of operation;

153 (D) The adequacy of the loss prevention programs of the company's  
154 insureds; and

155 (E) Such other factors deemed relevant by the commissioner in  
156 ascertaining whether the proposed captive insurance company will be  
157 able to meet its policy obligations.

158 (3) Information submitted pursuant to this subsection shall be and  
159 remain confidential and may not be made public by the commissioner  
160 or an employee or agent of the commissioner without the written  
161 consent of the company, except that:

162 (A) Such information may be discoverable by a party in a civil  
163 action or contested case to which the captive insurance company that  
164 submitted such information is a party upon a showing by the party  
165 seeking to discover such information that:

166 (i) The information sought is relevant to and necessary for the  
167 furtherance of such action or case;

168 (ii) The information sought is unavailable from other  
169 nonconfidential sources; and

170 (iii) A subpoena issued by a judicial or administrative officer of  
171 competent jurisdiction has been submitted to the commissioner,  
172 provided such submission requirement shall not apply to a risk  
173 retention group; and

174 (B) The commissioner may, in the commissioner's discretion,  
175 disclose such information to a public official having jurisdiction over  
176 the regulation of insurance in another state, provided:

177 (i) Such public official agrees, in writing, to maintain the  
178 confidentiality of such information; and

179 (ii) The laws of the state in which such public official serves require  
180 such information to be and to remain confidential.

181 (d) (1) Each captive insurance company shall pay to the  
182 commissioner a nonrefundable fee of two hundred dollars for

183 examining, investigating and processing its application for license, and  
184 the commissioner may retain legal, financial and examination services  
185 from outside the department, the reasonable cost of which may be  
186 charged against the applicant. The provisions of subdivisions (2) to (5),  
187 inclusive, of subsection (k) of section 38a-14 of the general statutes  
188 shall apply to examinations, investigations and processing conducted  
189 under this section.

190 (2) Each captive insurance company shall pay a license fee for the  
191 year of registration and a renewal fee for each year thereafter as set  
192 forth in section 38a-11 of the general statutes, as amended by this act.

193 (e) If the commissioner finds that the documents and statements  
194 that such captive insurance company has filed comply with the  
195 provisions of sections 1 to 18, inclusive, of this act, the commissioner  
196 may grant a license authorizing the company to do insurance business  
197 in this state until April first thereafter. The captive insurance company  
198 may apply to renew such license on such forms as the commissioner  
199 prescribes.

200 Sec. 3. (NEW) (*Effective October 1, 2005*) No captive insurance  
201 company shall adopt a name that is the same, deceptively similar or  
202 likely to be confused with or mistaken for any other existing business  
203 name registered in this state.

204 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) The Insurance  
205 Commissioner may not issue a license to a captive insurance company  
206 or allow the company to retain a license unless the company has and  
207 maintains unimpaired paid-in capital and surplus of:

208 (1) In the case of a pure captive insurance company, not less than  
209 two hundred fifty thousand dollars;

210 (2) In the case of an association captive insurance company, not less  
211 than seven hundred fifty thousand dollars;

212 (3) In the case of an industrial insured captive insurance company,



213 not less than five hundred thousand dollars;

214 (4) In the case of a risk retention group, not less than one million  
215 dollars; and

216 (5) In the case of a sponsored captive insurance company, not less  
217 than five hundred thousand dollars.

218 (b) The commissioner may adopt regulations, in accordance with  
219 chapter 54 of the general statutes, to establish additional capital and  
220 surplus requirements based upon the type, volume and nature of  
221 insurance business transacted.

222 (c) Capital and surplus may be in the form of cash or an irrevocable  
223 letter of credit issued by a bank chartered by this state or a member  
224 bank of the Federal Reserve System and approved by the  
225 commissioner.

226 Sec. 5. (NEW) (*Effective October 1, 2005*) No captive insurance  
227 company may pay a dividend out of, or other distribution with respect  
228 to, capital or surplus without the prior approval of the Insurance  
229 Commissioner. Approval of an ongoing plan for the payment of  
230 dividends or other distributions shall be conditioned on the retention,  
231 at the time of each payment, of capital or surplus in excess of amounts  
232 specified by, or determined in accordance with formulas approved by,  
233 the commissioner.

234 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) A pure captive insurance  
235 company may be incorporated as a stock insurer with its capital  
236 divided into shares and held by the stockholders, as a nonprofit  
237 corporation with one or more members, or as a manager-managed  
238 limited liability company.

239 (b) An association captive insurance company, an industrial insured  
240 captive insurance company, or a risk retention group may be:

241 (1) Incorporated as a stock insurer with its capital divided into

242 shares and held by the stockholders;

243 (2) Incorporated as a mutual insurer without capital stock, the  
244 governing body of which is elected by its insureds;

245 (3) Organized as a reciprocal insurer; or

246 (4) Organized as a manager-managed limited liability company.

247 (c) A captive insurance company incorporated or organized in this  
248 state shall have not less than three incorporators or three organizers of  
249 whom not less than one shall be a resident of this state.

250 (d) In the case of a captive insurance company:

251 (1) (A) Formed as a corporation, before the articles of incorporation  
252 are transmitted to the Secretary of the State, the incorporators shall  
253 petition the Insurance Commissioner to issue a certificate setting forth  
254 the commissioner's finding that the establishment and maintenance of  
255 the proposed corporation will promote the general good of the state. In  
256 arriving at such a finding the commissioner shall consider:

257 (i) The character, reputation, financial standing and purposes of the  
258 incorporators;

259 (ii) The character, reputation, financial responsibility, insurance  
260 experience and business qualifications of the officers and directors;  
261 and

262 (iii) Such other aspects as the commissioner deems advisable.

263 (B) The articles of incorporation, such certificate and the  
264 organization fee shall be transmitted to the Secretary of the State who  
265 shall record both the articles of incorporation and the certificate.

266 (2) Formed as a reciprocal insurer, the organizers shall petition the  
267 commissioner to issue a certificate setting forth the commissioner's  
268 finding that the establishment and maintenance of the proposed

269 association will promote the general good of the state. In arriving at  
270 such a finding the commissioner shall consider the items set forth in  
271 subparagraph (A) of subdivision (1) of this subsection.

272 (3) Formed as a limited liability company, before the articles of  
273 organization are transmitted to the Secretary of the State, the  
274 organizers shall petition the commissioner to issue a certificate setting  
275 forth the commissioner's finding that the establishment and  
276 maintenance of the proposed company will promote the general good  
277 of the state. In arriving at such a finding, the commissioner shall  
278 consider the items set forth in subparagraph (A) of subdivision (1) of  
279 this subsection.

280 (e) The capital stock of a captive insurance company incorporated as  
281 a stock insurer may be authorized with no par value.

282 (f) In the case of a captive insurance company:

283 (1) Formed as a corporation, at least one of the members of the  
284 board of directors shall be a resident of this state;

285 (2) Formed as a reciprocal insurer, at least one of the members of the  
286 subscribers' advisory committee shall be a resident of this state;

287 (3) Formed as a limited liability company, at least one of the  
288 managers shall be a resident of this state.

289 (g) Other than captive insurance companies formed as limited  
290 liability companies or as nonprofit corporations, captive insurance  
291 companies formed as corporations under the provisions of sections 1  
292 to 18, inclusive, of this act shall have the privileges and be subject to  
293 the provisions of title 33 of the general statutes as well as the  
294 applicable provisions in sections 1 to 18, inclusive, of this act. In the  
295 event of conflict between the provisions of title 33 of the general  
296 statutes and sections 1 to 18, inclusive, of this act, the provisions of  
297 sections 1 to 18, inclusive, of this act shall control.

298 (h) Captive insurance companies formed under the provisions of  
299 this chapter:

300 (1) As limited liability companies shall have the privileges and be  
301 subject to the provisions of chapter 613 of the general statutes and  
302 applicable provisions in sections 1 to 18, inclusive, of this act. In the  
303 event of a conflict between the provisions of chapter 613 of the general  
304 statutes and sections 1 to 18, inclusive, of this act, the provisions of  
305 sections 1 to 18, inclusive, of this act shall control; or

306 (2) As nonprofit corporations shall have the privileges and be  
307 subject to the applicable provisions of title 33 of the general statutes  
308 and applicable provisions in sections 1 to 18, inclusive, of this act. In  
309 the event of conflict between the provisions of title 33 of the general  
310 statutes and sections 1 to 18, inclusive, of this act, the provisions of  
311 sections 1 to 18, inclusive, of this act shall control.

312 (i) The provisions of chapter 698 of the general statutes pertaining to  
313 mergers, consolidations, conversions, mutualizations,  
314 redomestications and mutual holding companies shall apply in  
315 determining the procedures to be followed by captive insurance  
316 companies in carrying out any of the transactions described in said  
317 chapter 698.

318 (j) Captive insurance companies formed as reciprocal insurers under  
319 the provisions of sections 1 to 18, inclusive, of this act shall have the  
320 privileges and be subject to the provisions of title 38a of the general  
321 statutes in addition to the applicable provisions of sections 1 to 18,  
322 inclusive, of this act. In the event of a conflict between the provisions  
323 of sections 1 to 18, inclusive, of this act and title 38a of the general  
324 statutes, the provisions of sections 1 to 18, inclusive, of this act shall  
325 control.

326 (k) The articles of incorporation or bylaws of a captive insurance  
327 company formed as a corporation may authorize a quorum of its board  
328 of directors to consist of no fewer than one-third of the fixed or

329 prescribed number of directors.

330 (l) The subscribers' agreement or other organizing document of a  
331 captive insurance company formed as a reciprocal insurer may  
332 authorize a quorum of its subscribers' advisory committee to consist of  
333 no fewer than one-third of the number of its members.

334 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) Captive insurance  
335 companies shall not be required to make any annual report except as  
336 provided in sections 1 to 18, inclusive, of this act.

337 (b) Prior to March first of each year, each captive insurance  
338 company shall submit to the Insurance Commissioner a report of its  
339 financial condition verified by oath of two of its executive officers.  
340 Each captive insurance company shall report using generally accepted  
341 accounting principles, unless the commissioner approves the use of  
342 statutory accounting principles, with any appropriate or necessary  
343 modifications or adaptations required or approved or accepted by the  
344 commissioner for the type of insurance and kinds of insurers to be  
345 reported upon, and as supplemented by additional information  
346 required by the commissioner. Except as otherwise provided, each  
347 association captive insurance company and each risk retention group  
348 shall file its report in the form required by sections 38a-53 and 38a-53a  
349 of the general statutes. The commissioner may adopt regulations, in  
350 accordance with chapter 54 of the general statutes, to establish the  
351 manner in which pure captive insurance companies and industrial  
352 insured captive insurance companies shall report. The provisions of  
353 subsection (b) of section 38a-69a of the general statutes shall apply to  
354 each report filed pursuant to this section.

355 (c) Any pure captive insurance company or industrial insured  
356 captive insurance company may make written application to the  
357 commissioner for approval to file the required report at the end of the  
358 fiscal year. If the commissioner grants approval for such alternative  
359 reporting date:

360 (1) The annual report shall be due sixty days after the end of the  
361 fiscal year; and

362 (2) In order to provide sufficient detail to support the premium tax  
363 return, the pure captive insurance company or industrial insured  
364 captive insurance company shall file prior to March first of each year  
365 for each calendar year-end, such information as the commissioner may  
366 prescribe verified by oath of two of its executive officers.

367 Sec. 8. (NEW) (*Effective October 1, 2005*) (a) At least once every three  
368 years, and whenever the Insurance Commissioner determines it to be  
369 prudent, the commissioner or the commissioner's designee shall visit  
370 each captive insurance company and thoroughly inspect and examine  
371 its affairs to ascertain its financial condition, its ability to fulfill its  
372 obligations and whether it has complied with the provisions of  
373 sections 1 to 18, inclusive, of this act and any applicable provisions of  
374 title 38a of the general statutes. The commissioner may extend said  
375 three-year period to five years, provided the captive insurance  
376 company is subject to a comprehensive annual audit during such  
377 period of a scope satisfactory to the commissioner by independent  
378 auditors approved by the commissioner. The expenses and charges of  
379 the examination shall be paid to the commissioner for deposit into the  
380 Insurance Fund by the company examined.

381 (b) The provisions of subsection (k) of section 38a-14 of the general  
382 statutes shall apply to examinations conducted under this section.

383 (c) All examination reports, preliminary examination reports or  
384 results, working papers, recorded information, documents and copies  
385 thereof produced by, obtained by or disclosed to the commissioner or  
386 any other person in the course of an examination made under this  
387 section are confidential and are not subject to subpoena and may not  
388 be made public by the commissioner or an employee or agent of the  
389 commissioner without the written consent of the company, except to  
390 the extent provided in this subsection. Nothing in this subsection shall  
391 prevent the commissioner from using such information in furtherance

392 of the commissioner's regulatory authority under sections 1 to 18,  
393 inclusive, of this act or title 38a of the general statutes. The  
394 commissioner may, in the commissioner's discretion, grant access to  
395 such information to public officials having jurisdiction over the  
396 regulation of insurance in any other state or country, or to law  
397 enforcement officers of this state or any other state or agency of the  
398 federal government at any time, provided such officials or officers  
399 receiving the information agree, in writing, to hold it in a manner  
400 consistent with this section.

401       Sec. 9. (NEW) (*Effective October 1, 2005*) (a) The license of a captive  
402 insurance company may be suspended or revoked by the Insurance  
403 Commissioner for any of the following reasons:

404       (1) Insolvency or impairment of capital or surplus;

405       (2) Failure to meet the requirements of section 4 of this act;

406       (3) Refusal or failure to submit an annual report, as required by  
407 section 7 of this act or any other report or statement required by law or  
408 by lawful order of the commissioner;

409       (4) Failure to comply with the provisions of its own charter, bylaws  
410 or other organizational document;

411       (5) Failure to submit to or pay the cost of examination or any legal  
412 obligation related to such examination as required by any provision of  
413 sections 1 to 18, inclusive, of this act or title 38a of the general statutes;

414       (6) Use of methods that, although not otherwise specifically  
415 prohibited by law, nevertheless render its operation detrimental or its  
416 condition unsound with respect to the public or to its policyholders; or

417       (7) Failure otherwise to comply with the laws of this state.

418       (b) If the commissioner finds, after examination, hearing or other  
419 evidence, that any captive insurance company has violated any

420 provision of subsection (a) of this section, the commissioner may  
421 suspend or revoke such company's license if the commissioner deems  
422 it in the best interest of the public and the policyholders of such  
423 captive insurance company, notwithstanding any other provision of  
424 sections 1 to 18, inclusive, of this act or title 38a of the general statutes.

425       Sec. 10. (NEW) (*Effective October 1, 2005*) (a) Association captive  
426 insurance companies and risk retention groups shall comply with the  
427 investment requirements in chapter 698 of the general statutes, as  
428 applicable. Notwithstanding any other provision of sections 1 to 18,  
429 inclusive, of this act, the commissioner may approve the use of  
430 alternative reliable methods of valuation and rating.

431       (b) No pure captive insurance company or industrial insured  
432 captive insurance company shall be subject to any restrictions on  
433 allowable investments, except that the Insurance Commissioner may  
434 prohibit or limit any investment that threatens the solvency or  
435 liquidity of any such company.

436       (c) No pure captive insurance company may make a loan to or an  
437 investment in its parent company or affiliates without prior written  
438 approval of the commissioner, and any such loan or investment shall  
439 be evidenced by documentation approved by the commissioner. Loans  
440 of minimum capital and surplus funds required in section 4 of this act  
441 are prohibited.

442       Sec. 11. (NEW) (*Effective October 1, 2005*) (a) Any captive insurance  
443 company may provide reinsurance on risks ceded by any other  
444 insurer.

445       (b) Any captive insurance company may take credit for the  
446 reinsurance of risks or portions of risks ceded to reinsurers that  
447 complies with the provisions of section 38a-85 or 38a-86 of the general  
448 statutes. Prior approval of the Insurance Commissioner shall be  
449 required for ceding or taking credit for the reinsurance of risks or  
450 portions of risks ceded to reinsurers not complying with section 38a-85



451 or 38a-86 of the general statutes, except for business written by an alien  
452 captive insurance company outside of the United States.

453 (c) In addition to reinsurance authorized under the provisions of  
454 sections 38a-85 and 38a-86 of the general statutes, a captive insurance  
455 company may take credit for the reinsurance of risks or portions of  
456 risks ceded to a pool, exchange or association acting as a reinsurer  
457 which has been authorized by the commissioner. The commissioner  
458 may require any other documents, financial information or other  
459 evidence that such a pool, exchange or association will be able to  
460 provide adequate security for its financial obligations. The  
461 commissioner may deny authorization or impose any limitations on  
462 the activities of a reinsurance pool, exchange or association that, in the  
463 commissioner's judgment, are necessary and proper to provide  
464 adequate security for the ceding captive insurance company and for  
465 the protection and consequent benefit of the public at large.

466 (d) For purposes of sections 1 to 18, inclusive, of this act, insurance  
467 by a captive insurance company of any workers' compensation  
468 qualified self-insured plan of its parent and affiliates shall be deemed  
469 to be reinsurance.

470 Sec. 12. (NEW) (*Effective October 1, 2005*) No captive insurance  
471 company shall be required to join a rating organization.

472 Sec. 13. (NEW) (*Effective October 1, 2005*) No captive insurance  
473 company may join or contribute financially to any plan, pool,  
474 association or guaranty or insolvency fund in this state, nor shall any  
475 such captive insurance company, or any insured or affiliate thereof,  
476 receive any benefit from any such plan, pool, association or guaranty  
477 or insolvency fund for claims arising out of the operations of such  
478 captive insurance company.

479 Sec. 14. (NEW) (*Effective October 1, 2005*) (a) Each captive insurance  
480 company shall pay to the Commissioner of Revenue Services, in the  
481 month of February of each year, a tax at the rate of thirty-eight

482 hundredths of one per cent on the first twenty million dollars and two  
483 hundred eighty-five thousandths of one per cent on the next twenty  
484 million dollars and nineteen hundredths of one per cent on the next  
485 twenty million dollars and seventy-two thousandths of one per cent on  
486 each dollar thereafter on the direct premiums collected or contracted  
487 for on policies or contracts of insurance written by the captive  
488 insurance company during the year ending December thirty-first next  
489 preceding, after deducting from the direct premiums subject to the tax  
490 the amounts paid to policyholders as return premiums which shall  
491 include dividends on unabsorbed premiums or premium deposits  
492 returned or credited to policyholders, except that no tax shall be due or  
493 payable as to considerations received for annuity contracts.

494 (b) Each captive insurance company shall pay to the Commissioner  
495 of Revenue Services in the month of February of each year a tax at the  
496 rate of two hundred fourteen thousandths of one per cent on the first  
497 twenty million dollars of assumed reinsurance premium, and one  
498 hundred forty-three thousandths of one per cent on the next twenty  
499 million dollars and forty-eight thousandths of one per cent on the next  
500 twenty million dollars and twenty-four thousandths of one per cent of  
501 each dollar thereafter, except that no reinsurance tax shall apply to  
502 premiums for risks or portions of risks which are subject to taxation on  
503 a direct basis pursuant to subsection (a) of this section. No reinsurance  
504 premium tax shall be payable in connection with the receipt of assets  
505 in exchange for the assumption of loss reserves and other liabilities of  
506 another insurer under common ownership and control if (1) such  
507 transaction is part of a plan to discontinue the operations of such other  
508 insurer, and (2) the intent of the parties to such transaction is to renew  
509 or maintain such business with the captive insurance company.

510 (c) The annual minimum aggregate tax to be paid by a captive  
511 insurance company calculated under subsections (a) and (b) of this  
512 section shall be seven thousand five hundred dollars, and the annual  
513 maximum aggregate tax shall be two hundred thousand dollars. The  
514 maximum aggregate tax to be paid by a sponsored insurance company

515 shall apply to each protected cell only and not to the sponsored captive  
516 insurance company as a whole.

517 (d) A captive insurance company failing to file returns as required  
518 in this section or failing to pay within the time required all taxes  
519 assessed by this section shall be subject to penalty under section 12-229  
520 of the general statutes.

521 (e) Two or more captive insurance companies under common  
522 ownership and control shall be taxed as though they were a single  
523 captive insurance company.

524 (f) For the purposes of this section common ownership and control  
525 means:

526 (1) In the case of stock corporations, the direct or indirect ownership  
527 of eighty per cent or more of the outstanding voting stock of two or  
528 more corporations by the same shareholder or shareholders; and

529 (2) In the case of mutual or nonprofit corporations, the direct or  
530 indirect ownership of eighty per cent or more of the surplus and the  
531 voting power of two or more corporations by the same member or  
532 members.

533 (g) The tax provided for in this section shall constitute all taxes  
534 collectible under the laws of this state from any captive insurance  
535 company, and no other occupation tax or other taxes shall be levied or  
536 collected from any captive insurance company by the state or any  
537 county, city or municipality within this state, except taxes on real and  
538 personal property used in the production of income.

539 (h) The premium tax revenues collected pursuant to this section  
540 shall be deposited in the General Fund, except that annually, ten per  
541 cent of the revenues shall be transferred to the Insurance Fund  
542 established in section 38a-52a of the general statutes for the purpose of  
543 regulating captive insurance companies under sections 1 to 18,  
544 inclusive, of this act.

545 (i) The tax provided for in this section shall be calculated on an  
546 annual basis, notwithstanding policies or contracts of insurance or  
547 contracts of reinsurance issued on a multiyear basis. In the case of  
548 multiyear policies or contracts, the premium shall be prorated for  
549 purposes of determining the tax under this section.

550 Sec. 15. (NEW) (*Effective October 1, 2005*) No provisions of title 38a of  
551 the general statutes, other than those contained in sections 1 to 18,  
552 inclusive, of this act, shall apply to captive insurance companies. Risk  
553 retention groups shall have the privileges and be subject to the  
554 provisions of chapter 698c of the general statutes in addition to the  
555 applicable provisions of sections 1 to 18, inclusive, of this act.

556 Sec. 16. (NEW) (*Effective October 1, 2005*) Except as otherwise  
557 provided in sections 1 to 18, inclusive, of this act, the terms and  
558 conditions set forth in title 38a of the general statutes pertaining to  
559 insurance liquidations and receiverships shall apply in full to captive  
560 insurance companies formed or licensed under sections 1 to 18,  
561 inclusive, of this act.

562 Sec. 17. (NEW) (*Effective October 1, 2005*) (a) An association captive  
563 insurance company, risk retention group or industrial insured captive  
564 insurance company formed as a stock or mutual corporation may be  
565 converted to or merged with and into a reciprocal insurer in  
566 accordance with a plan for such conversion or merger and the  
567 provisions of this section.

568 (b) Any plan for such conversion or merger shall provide a fair and  
569 equitable plan for purchasing, retiring or otherwise extinguishing the  
570 interests of the stockholders and policyholders of a stock insurer, and  
571 the members and policyholders of a mutual insurer, including a fair  
572 and equitable provision for the rights and remedies of dissenting  
573 stockholders, members or policyholders.

574 (c) In the case of a conversion authorized under subsection (a) of  
575 this section:

576 (1) Such conversion shall be accomplished under such reasonable  
577 plan and procedure as may be approved by the commissioner, except  
578 that the Insurance Commissioner shall not approve any such plan of  
579 conversion unless such plan:

580 (A) Satisfies the provisions of subsection (b) of this section;

581 (B) Provides for a hearing, of which notice is given or to be given to  
582 the captive insurance company, its directors, officers and  
583 policyholders, and in the case of a stock insurer, its stockholders, and  
584 in the case of a mutual insurer, its members, all of which persons shall  
585 be entitled to attend and appear at such hearing, except that if notice of  
586 a hearing is given and no director, officer, policyholder, member or  
587 stockholder requests a hearing, the commissioner may cancel such  
588 hearing;

589 (C) Provides a fair and equitable plan for the conversion of  
590 stockholder, member or policyholder interests into subscriber interests  
591 in the resulting reciprocal insurer, substantially proportionate to the  
592 corresponding interests in the stock or mutual insurer, except that this  
593 requirement shall not preclude the resulting reciprocal insurer from  
594 applying underwriting criteria that could affect ongoing ownership  
595 interests; and

596 (D) Is approved:

597 (i) In the case of a stock insurer, by a majority of the shares entitled  
598 to vote represented in person or by proxy at a duly called regular or  
599 special meeting at which a quorum is present; and

600 (ii) In the case of a mutual insurer, by a majority of the voting  
601 interests of policyholders represented in person or by proxy at a duly  
602 called regular or special meeting thereof at which a quorum is present;

603 (2) The commissioner shall approve such plan of conversion if the  
604 commissioner finds that the conversion will promote the general good  
605 of the state in conformity with those standards set forth in subdivision

606 (2) of subsection (d) of section 6 of this act;

607 (3) If the commissioner approves the plan, the commissioner shall  
608 amend the converting insurer's certificate of authority to reflect  
609 conversion to a reciprocal insurer and issue such amended certificate  
610 of authority to the company's attorney-in-fact;

611 (4) The conversion shall be effective upon the issuance of an  
612 amended certificate of authority of a reciprocal insurer by the  
613 commissioner; and

614 (5) Upon the effectiveness of such conversion the corporate  
615 existence of the converting insurer shall cease and the resulting  
616 reciprocal insurer shall notify the Secretary of the State of such  
617 conversion.

618 (d) A merger authorized under subsection (a) of this section shall be  
619 accomplished substantially in accordance with the procedures set forth  
620 in chapter 698 of the general statutes, except that, solely for purposes  
621 of such merger:

622 (1) The plan of merger shall satisfy the provisions of subsection (b)  
623 of this section;

624 (2) The subscribers' advisory committee of a reciprocal insurer shall  
625 be equivalent to the board of directors of a stock or mutual insurance  
626 company;

627 (3) The subscribers of a reciprocal insurer shall be the equivalent of  
628 the policyholders of a mutual insurance company;

629 (4) If a subscribers' advisory committee does not have a president or  
630 secretary, the officers of such committee having substantially  
631 equivalent duties shall be deemed the president or secretary of such  
632 committee;

633 (5) The commissioner shall approve the articles of merger if the

634 commissioner finds that the merger will promote the general good of  
635 the state in conformity with those standards set forth in subdivision (2)  
636 of subsection (d) of section 6 of this act. If the commissioner approves  
637 the articles of merger, the commissioner shall endorse the  
638 commissioner's approval thereon and the surviving insurer shall  
639 present the articles of merger to the Secretary of the State at the  
640 Secretary of the State's office;

641 (6) Notwithstanding section 4 of this act, the commissioner may  
642 permit the formation, without surplus, of a captive insurance company  
643 organized as a reciprocal insurer, into which an existing captive  
644 insurance company may be merged for the purpose of facilitating a  
645 transaction under this section, except that there shall be no more than  
646 one authorized insurance company surviving such merger; and

647 (7) An alien insurer may be a party to a merger authorized under  
648 subsection (a) of this section, except that the requirements for a merger  
649 between a domestic and a foreign insurer under chapter 698 of the  
650 general statutes shall apply to a merger between a domestic and an  
651 alien insurer under this subsection. Such alien insurer shall be treated  
652 as a foreign insurer under chapter 698 of the general statutes and such  
653 other jurisdictions shall be the equivalent of a state for purposes of  
654 chapter 698 of the general statutes.

655 (e) A conversion or merger under this section shall have the effects  
656 of conversion or merger set forth in chapter 698 of the general statutes  
657 to the extent such effects are not inconsistent with the provisions of  
658 sections 1 to 18, inclusive, of this act.

659 Sec. 18. (NEW) (*Effective October 1, 2005*) The Insurance  
660 Commissioner may adopt regulations, in accordance with chapter 54  
661 of the general statutes, to establish standards to ensure that a parent or  
662 affiliated company is able to exercise control of the risk management  
663 function of any controlled unaffiliated business to be insured by the  
664 pure captive insurance company, except that until such regulations are  
665 approved, the commissioner may approve the coverage of such risks

666 by a pure captive insurance company.

667 Sec. 19. Subsection (a) of section 38a-11 of the general statutes is  
668 repealed and the following is substituted in lieu thereof (*Effective*  
669 *October 1, 2005*):

670 (a) The commissioner shall demand and receive the following fees:  
671 (1) For the annual fee for each license issued to a domestic insurance  
672 company, one hundred dollars; (2) for receiving and filing annual  
673 reports of domestic insurance companies, twenty-five dollars; (3) for  
674 filing all documents prerequisite to the issuance of a license to an  
675 insurance company, one hundred seventy-five dollars, except that the  
676 fee for such filings by any health care center, as defined in section 38a-  
677 175, shall be one thousand one hundred dollars; (4) for filing any  
678 additional paper required by law, fifteen dollars; (5) for each certificate  
679 of valuation, organization, reciprocity or compliance, twenty dollars;  
680 (6) for each certified copy of a license to a company, twenty dollars; (7)  
681 for each certified copy of a report or certificate of condition of a  
682 company to be filed in any other state, twenty dollars; (8) for  
683 amending a certificate of authority, one hundred dollars; (9) for each  
684 license issued to a rating organization, one hundred dollars. In  
685 addition, insurance companies shall pay any fees imposed under  
686 section 12-211; (10) a filing fee of twenty-five dollars for each initial  
687 application for a license made pursuant to section 38a-769; (11) with  
688 respect to insurance agents' appointments: (A) A filing fee of twenty-  
689 five dollars for each request for any agent appointment; (B) a fee of  
690 forty dollars for each appointment issued to an agent of a domestic  
691 insurance company or for each appointment continued; and (C) a fee  
692 of twenty dollars for each appointment issued to an agent of any other  
693 insurance company or for each appointment continued, except that no  
694 fee shall be payable for an appointment issued to an agent of an  
695 insurance company domiciled in a state or foreign country which does  
696 not require any fee for an appointment issued to an agent of a  
697 Connecticut insurance company; (12) with respect to insurance  
698 producers: (A) An examination fee of seven dollars for each



699 examination taken, except when a testing service is used, the testing  
700 service shall pay a fee of seven dollars to the commissioner for each  
701 examination taken by an applicant; (B) a fee of forty dollars for each  
702 license issued; and (C) a fee of forty dollars for each license renewed;  
703 (13) with respect to public adjusters: (A) An examination fee of seven  
704 dollars for each examination taken, except when a testing service is  
705 used, the testing service shall pay a fee of seven dollars to the  
706 commissioner for each examination taken by an applicant; and (B) a fee  
707 of one hundred twenty-five dollars for each license issued or renewed;  
708 (14) with respect to casualty adjusters: (A) An examination fee of ten  
709 dollars for each examination taken, except when a testing service is  
710 used, the testing service shall pay a fee of ten dollars to the  
711 commissioner for each examination taken by an applicant; (B) a fee of  
712 forty dollars for each license issued or renewed; and (C) the expense of  
713 any examination administered outside the state shall be the  
714 responsibility of the entity making the request and such entity shall  
715 pay to the commissioner one hundred dollars for such examination  
716 and the actual traveling expenses of the examination administrator to  
717 administer such examination; (15) with respect to motor vehicle  
718 physical damage appraisers: (A) An examination fee of forty dollars  
719 for each examination taken, except when a testing service is used, the  
720 testing service shall pay a fee of forty dollars to the commissioner for  
721 each examination taken by an applicant; (B) a fee of forty dollars for  
722 each license issued or renewed; and (C) the expense of any  
723 examination administered outside the state shall be the responsibility  
724 of the entity making the request and such entity shall pay to the  
725 commissioner one hundred dollars for such examination and the  
726 actual traveling expenses of the examination administrator to  
727 administer such examination; (16) with respect to certified insurance  
728 consultants: (A) An examination fee of thirteen dollars for each  
729 examination taken, except when a testing service is used, the testing  
730 service shall pay a fee of thirteen dollars to the commissioner for each  
731 examination taken by an applicant; (B) a fee of two hundred dollars for  
732 each license issued; and (C) a fee of one hundred twenty-five dollars

733 for each license renewed; (17) with respect to surplus lines brokers: (A)  
734 An examination fee of ten dollars for each examination taken, except  
735 when a testing service is used, the testing service shall pay a fee of ten  
736 dollars to the commissioner for each examination taken by an  
737 applicant; and (B) a fee of five hundred dollars for each license issued  
738 or renewed; (18) with respect to fraternal agents, a fee of forty dollars  
739 for each license issued or renewed; (19) a fee of thirteen dollars for  
740 each license certificate requested, whether or not a license has been  
741 issued; (20) with respect to domestic and foreign benefit societies shall  
742 pay: (A) For service of process, twenty-five dollars for each person or  
743 insurer to be served; (B) for filing a certified copy of its charter or  
744 articles of association, five dollars; (C) for filing the annual report, ten  
745 dollars; and (D) for filing any additional paper required by law, three  
746 dollars; (21) with respect to foreign benefit societies: (A) For each  
747 certificate of organization or compliance, four dollars; (B) for each  
748 certified copy of permit, two dollars; and (C) for each copy of a report  
749 or certificate of condition of a society to be filed in any other state, four  
750 dollars; (22) with respect to reinsurance intermediaries: A fee of five  
751 hundred dollars for each license issued or renewed; (23) with respect  
752 to viatical settlement providers: (A) A filing fee of thirteen dollars for  
753 each initial application for a license made pursuant to section 38a-465a;  
754 and (B) a fee of twenty dollars for each license issued or renewed; (24)  
755 with respect to viatical settlement brokers: (A) A filing fee of thirteen  
756 dollars for each initial application for a license made pursuant to  
757 section 38a-465a; and (B) a fee of twenty dollars for each license issued  
758 or renewed; (25) with respect to viatical settlement investment agents:  
759 (A) A filing fee of thirteen dollars for each initial application for a  
760 license made pursuant to section 38a-465a; and (B) a fee of twenty  
761 dollars for each license issued or renewed; (26) with respect to  
762 preferred provider networks, a fee of two thousand five hundred  
763 dollars for each license issued or renewed; (27) with respect to rental  
764 companies, as defined in section 38a-799, a fee of forty dollars for each  
765 permit issued or renewed; (28) with respect to captive insurance  
766 companies, as defined in section 1 of this act, a fee of three hundred

767 dollars for each license issued or renewed; and [(28)] (29) with respect  
 768 to each duplicate license issued a fee of twenty-five dollars for each  
 769 license issued.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	New section
Sec. 11	<i>October 1, 2005</i>	New section
Sec. 12	<i>October 1, 2005</i>	New section
Sec. 13	<i>October 1, 2005</i>	New section
Sec. 14	<i>October 1, 2005</i>	New section
Sec. 15	<i>October 1, 2005</i>	New section
Sec. 16	<i>October 1, 2005</i>	New section
Sec. 17	<i>October 1, 2005</i>	New section
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	38a-11(a)

***Statement of Purpose:***

To allow captive insurers to be licensed and domiciled in this state.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. CRISCO, 17th Dist.

S.B. 27